

AGENDA BILL APPROVAL FORM

Agenda Subject: Proposed Ordinance 6282 related to Open Space Taxation/Current Use		Date: December 15, 2009				
Department: Planning, Building & Community Development	Attachments: As Listed Below	Budget Impact: \$ 0				
Administrative Recommendation: City Council introduce and adopt Ordinance 6282.						
Background Summary: <p>The following key elements related to City Open Space Taxation/Current Use review processes will be amended through adoption of Ordinance 6282:</p> <ul style="list-style-type: none"> • Pierce County Public Benefit Rating System (PBRs). Extend the December 31, 2009 sunset clause of Ordinance 6232 to December 31, 2010, in order to apply the PBRs of Pierce County Code 2.114 to existing applications in process. Adopt Pierce County PBRs criteria as amended and criteria as may be amended by the Pierce County Council to consider future applications that may be filled prior to December 31, 2010. • Joint Determining Authority (JDA). Reappoint the three JDA members beyond the December 31, 2009 sunset clause of Ordinance 6232 in order to act on existing applications in process and future applications. • Application Fee. Replace the reference to "Miscellaneous Administration Decisions" fee with "applicable" city fee at the time of application submittal. <p>A briefing was provided to the PCD Committee on December 14, 2009 and to the Finance Committee on December 21, 2009.</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> L1221-1 F4.3 </div>						
Attachments: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> 1. RCW Definition of Open Space 2. RCW Criteria for Consideration 3. Ordinance No. 6232 </div> <div style="width: 45%;"> 4 Proposed Ordinance No. 6282 5 Pierce Co. 2009 PBRs Table 2.114-1 </div> </div>						
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> Reviewed by Council & Committees: <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm. </td> <td style="width: 50%; vertical-align: top;"> Reviewed by Departments & Divisions: <input type="checkbox"/> Building <input type="checkbox"/> Cemetery <input type="checkbox"/> Finance <input type="checkbox"/> Fire <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Public Works </td> </tr> <tr> <td style="vertical-align: top;"> COUNCIL COMMITTEES: <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Municipal Serv. <input checked="" type="checkbox"/> Planning & CD <input type="checkbox"/> Public Works <input type="checkbox"/> Other _____ </td> <td style="vertical-align: top;"> <input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources </td> </tr> </table>			Reviewed by Council & Committees: <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm.	Reviewed by Departments & Divisions: <input type="checkbox"/> Building <input type="checkbox"/> Cemetery <input type="checkbox"/> Finance <input type="checkbox"/> Fire <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Public Works	COUNCIL COMMITTEES: <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Municipal Serv. <input checked="" type="checkbox"/> Planning & CD <input type="checkbox"/> Public Works <input type="checkbox"/> Other _____	<input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources
Reviewed by Council & Committees: <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm.	Reviewed by Departments & Divisions: <input type="checkbox"/> Building <input type="checkbox"/> Cemetery <input type="checkbox"/> Finance <input type="checkbox"/> Fire <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Public Works					
COUNCIL COMMITTEES: <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Municipal Serv. <input checked="" type="checkbox"/> Planning & CD <input type="checkbox"/> Public Works <input type="checkbox"/> Other _____	<input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources					
Action: <div style="display: flex; justify-content: space-between;"> <div> Committee Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No Council Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No Referred to _____ Until ____/____/____ Tabled _____ Until ____/____/____ </div> <div> Call for Public Hearing ____/____/____ </div> </div>						
Councilmember: Norman		Staff: Snyder				
Meeting Date: December 21, 2009		Item Number: VIII.A.3				

ORDINANCE NO. 6 2 8 2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING ORDINANCE NO. 6232 RELATED TO THE CURRENT USE ASSESSMENT TAX PROGRAM

WHEREAS, Chapter 84.34 of the Revised Code of Washington ("RCW") provides for certain properties within the City to be assessed based on the current use of that property instead of at the highest and best use of the property in order to preserve open space and other public benefits; and

WHEREAS, when property is located within a city, the application must be approved by a Joint Determining Authority (JDA) consisting of three County Council members and three City Council members; and

WHEREAS, RCW 84.34.030 allows the City to charge a reasonable processing fee for evaluation of these applications; and

WHEREAS, Ordinance No. 6232 was limited to applications acted upon prior to December 31, 2009.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. Section 1 of Ordinance No. 6232 is hereby revised as follows:

A. Section 1 of Ordinance No. 6232, Current Use Assessment Program Criteria, is amended to provide that for purposes of evaluating Current Use Assessment applications for properties located both within the City of Auburn and within Pierce County, the City Council adopts Pierce County's Public Benefits Rating System criteria as set forth in Table 2.114-1, adopted in the Pierce County Code – Pierce County Ordinance Number 2009-45s Section 2

(Part) and as may be amended by the Pierce County Council, which current version is as set forth in Chapter 2.114 of the Pierce County Code, and which table is attached hereto, marked as Exhibit A incorporated herein by reference. A copy of the current version of the Table and Pierce County Code Chapter 2.114 shall be on file and available at the Office of the City Clerk. The definitions and text in said Chapter 2.114 are also adopted by reference on so far as they are not inconsistent with other provisions of the Auburn City Code, and so as to provide assistance in interpreting and implementing said Table 2.114-1.

B. Section 2 of Ordinance No. 6232, Appointment of Members, is amended to provide that the chairs of Finance, Public Works and Planning & Community Development Committees are hereby appointed to the Joint Determining Authority (JDA) and the Vice Chairs of Committee are hereby appointed as alternates to the JDA.

C. Section 3 of Ordinance No. 6232, Processing Fee, is amended to provide that applicants shall pay the applicable fee in effect when the application is submitted.

D. All other provisions of Ordinance No. 6232 shall remain in full force and effect.

Section 2. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 3. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law. Provided that the Pierce County's Public Benefits Rating System criteria as set forth in Table 2.114-1 and attached as Exhibit A shall sunset and automatically expire and be of no further effect on December 31, 2010, unless expressly

extended or renewed by action of the City Council, in which case, the criteria and provisions of state law applicable to Current Use Assessment Tax programs would apply.

INTRODUCED: _____

PASSED: _____

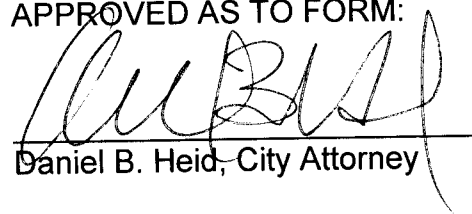
APPROVED: _____

ATTEST:

PETER B. LEWIS, MAYOR

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Published: _____

Appendix "A"

TABLE 2.114-1 PUBLIC BENEFIT RATING SYSTEM		
	Categories	Point System
Priority Resource	<u>High Priority</u> <ul style="list-style-type: none"> • Agricultural Lands • Critical Salmon Habitat • Fish and Wildlife Habitat Conservation Areas • Marine Waters • Prairies • Streams • Tracts that provide linkage and access to said open space areas • Wetlands, Estuaries, and Tidal-Marshes • Wooded Areas 	5 points each
	<u>Medium Priority</u> <ul style="list-style-type: none"> • Aquifer Recharge Areas • Flood Hazard Areas • Lakes • Private Open Space Passive Recreation • Privately Owned and Operated Recreational Facilities • Private Trails and Corridors • Archaeological Sites • Historic Landmark Sites • Tracts that provide linkage and access to said open space areas 	3 points each
	<u>Low Priority</u> <ul style="list-style-type: none"> • Landslide Hazard Areas (Steep Slopes) • Private Parks and Private Golf Courses with Developed Facilities • Scenic View Points and Corridors • Seismic Hazard Areas • Tracts that provide linkage and access to said open space areas • Volcanic Hazard Areas 	1 point each
Bonus	Public Access Granted	5 points
	Conservation/Historic Easement Granted in Perpetuity (forever)	10 points
	Site Within a Designated Urban Growth Area (UGA) or the Comprehensive Urban Growth Area (CUGA)	5 points
	Site is Adjacent to (abuts) or Creates Linkage With Another Open Space Parcel	5 points
Super Bonus	Properties with at least five priority resource points and which allow a degree of public access appropriate to the sensitivity of the resource(s) and which provide a qualifying conservation or historic easement in perpetuity.	25 points

(Ord. 2009-45s § 2 (part), 2009; Ord. 2004-112s § 2 (part), 2004; Ord. 98-114S § 3 (part), 1999)

RCW 84.34.020

Definitions As used in this chapter, unless a different meaning is required by the context:

(1) "Open space land" means

(a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or

(b) any land area, the preservation of which in its present use would

(i) conserve and enhance natural or scenic resources, or

(ii) protect streams or water supply, or

(iii) promote conservation of soils, wetlands, beaches or tidal marshes, or

(iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or

(v) enhance recreation opportunities, or

(vi) preserve historic sites, or

(vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or

(c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

RCW 84.34.037

Applications for current use classification — To whom made — Factors — Review

(1) Applications for classification or reclassification under RCW 84.34.020(1) shall be made to the county legislative authority. An application made for classification or reclassification of land under RCW 84.34.020(1) (b) and (c) which is in an area subject to a comprehensive plan shall be acted upon in the same manner in which an amendment to the comprehensive plan is processed. ... PROVIDED, That applications for classification of land in an incorporated area shall be acted upon by: (a) A granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located in a meeting where members may be physically absent but participating through telephonic connection; or (b) separate affirmative acts by both the county and city legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications.

(2) In determining whether an application made for classification or reclassification under RCW 84.34.020(1) (b) and (c) should be approved or disapproved, the granting authority may take cognizance of the benefits to the general welfare of preserving the current use of the property which is the subject of application, and shall consider:

(a) The resulting revenue loss or tax shift;

(b) Whether granting the application for land applying under RCW 84.34.020(1)(b) will

(i) conserve or enhance natural, cultural, or scenic resources,

(ii) protect streams, stream corridors, wetlands, natural shorelines and aquifers,

(iii) protect soil resources and unique or critical wildlife and native plant habitat,

(iv) promote conservation principles by example or by offering educational opportunities, (v) enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces,

(vi) enhance recreation opportunities,

(vii) preserve historic and archaeological sites,

(viii) preserve visual quality along highway, road, and street corridors or scenic vistas,

(ix) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property; and

(c) Whether granting the application for land applying under RCW 84.34.020(1)(c) will

(i) either preserve land previously classified under RCW 84.34.020(2) ...

(3) If a public benefit rating system is adopted under RCW 84.34.055, the county legislative authority shall rate property for which application for classification has been made under RCW 84.34.020(1) (b) and (c) according to the public benefit rating system in determining whether an application should be approved or disapproved, but when such a system is adopted, open space properties then classified under this chapter which do not qualify under the system shall not be removed from classification but may be rated according to the public benefit rating system.

... (5) The granting or denial of the application for current use classification or reclassification is a legislative determination and shall be reviewable only for arbitrary and capricious actions.

[2009 c 350 § 13; 1992 c 69 § 6; 1985 c 393 § 1; 1984 c 111 § 1; 1973 1st ex.s. c 212 § 5.]

ORDINANCE NO. 6232

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON RELATED TO THE CURRENT USE ASSESSMENT TAX PROGRAM, ADOPTING CRITERIA FOR 2009 APPLICATIONS, APPOINTING MEMBERS TO THE JOINT DETERMINING AUTHORITY, AND ASSESSING AN APPLICATION FEE

WHEREAS, Chapter 84.34 of the Revised Code of Washington ("RCW") provides for certain properties within the City to be assessed based on the current use of that property instead of at the highest and best use of the property in order to preserve open space and other public benefits; and

WHEREAS, when property is located within a city, the application must be approved by a Joint Determining Authority (JDA) consisting of three County Council members and three City Council members; and

WHEREAS, RCW 84.34.030 allows the City to charge a reasonable processing fee for evaluation of these applications;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. Current Use Assessment Program Criteria. For purposes of evaluating Current Use Assessment applications for properties located both within the City of Auburn and within Pierce County that are to be decided in 2009, the City Council adopts Pierce County's Public Benefits Rating System criteria as set forth in Chapter 2.114 of the Pierce County Code.

Section 2. Appointment of Members. The chairs of Finance, Public Works and Planning & Community Development Committees are hereby appointed to the Joint Determining Authority (JDA) until December 31, 2009. The chair of the Municipal Services Committee is hereby appointed as an alternate to the JDA.

Section 3. Processing Fee. Applicants shall pay the Miscellaneous Administrative Planning fee in effect when the application is received by the City.

Section 4. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

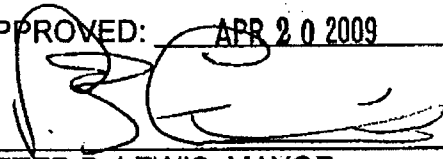
Section 5. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 6. Effective date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: APR 20 2009

PASSED: APR 20 2009

APPROVED: APR 20 2009


PETER B. LEWIS, MAYOR

ATTEST:


Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:


Daniel B. Heid, City Attorney

Published: April 23, 2009

Appendix "A"

TABLE 2.114 PUBLIC BONE CUTTING SYSTEM		
	Categories	Point System
Priority Resource	<u>High Priority</u> <ul style="list-style-type: none"> • Critical Salmon Habitat • Fish and Wildlife Habitat Conservation Areas • Marine Waters • Streams • Wetlands, Estuaries, and Tidal-Marshes • Wooded Areas 	5 points each
	<u>Medium Priority</u> <ul style="list-style-type: none"> • Agricultural Lands • Aquifer Recharge Areas • Flood Hazard Areas • Lakes • Private Open Space Passive Recreation • Privately Owned and Operated Recreational Facilities • Private Trails and Corridors 	3 points each
	<u>Low Priority</u> <ul style="list-style-type: none"> • Archaeological Sites • Historic Landmark Sites • Landslide Hazard Areas (Steep Slopes) • Private Parks and Private Golf Courses with Developed Facilities • Scenic View Points and Corridors • Seismic Hazard Areas • Volcanic Hazard Areas 	1 point each
Bonus	Public Access Granted	5 points
	Conservation/Historic Easement Granted in Perpetuity (forever)	10 points
	Site Within a Designated Urban Growth Area (UGA) or the Comprehensive Urban Growth Area (CUGA)	5 points
	Site is Adjacent to (abuts) or Creates Linkage With Another Open Space Parcel	5 points
Super Bonus	Properties with at least five priority resource points and which allow a degree of public access appropriate to the sensitivity of the resource(s) and which provide a qualifying conservation or historic easement in perpetuity.	25 points

(Ord. 2004-112s § 2 (part), 2004; Ord. 98-114S § 3 (part), 1999)

Appendix "B"

TABLE 2-114.100-1 VALUATION SCHEDULE TABLE			
True and Fair Market Value	Percent Value Reduction	Current Use Assessment	Point System
100%	0%	100%	0 - 2 points
100%	20%	80%	3 points
100%	30%	70%	6 points
100%	40%	60%	9 points
100%	50%	50%	12 points
100%	60%	40%	15 points
100%	70%	30%	18 points
100%	80%	20%	20 points
100%	90%	10%	25 points or more

(Ord. 98-114S § 3 (part), 1999)

